

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	Bankruptcy Appeal No. 20-cv-583-CM
THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC., et al., ¹	Chapter 11 No. 15-bk-23007-RDD
Debtors.	Jointly Administered
THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC., et al., Plaintiffs-Appellees,	Adversary Proceeding No. 18-ap-8245-RDD
- against -	
PEPSICO, INC., BOTTLING GROUP, LLC, FRITO-LAY NORTH AMERICA, INC., QUAKER SALES AND DISTRIBUTION, INC., MULLER QUAKER DAIRY, LLC, STACY'S PITA CHIP COMPANY, INC., PEPSI BOTTLING GROUP, NJ, and PEPSI USA,	
Defendants-Appellants.	

ORDER AMENDING MAY 18 ORDER AND JUDGMENT

On May 18, 2020, this Court denied a motion for leave to file an interlocutory appeal made by PepsiCo, Inc.; Bottling Group, LLC; Frito-Lay North America, Inc.; Quaker Sales and Distribution, Inc.; and Muller Quaker Dairy, LLC (collectively, “Pepsi,” the “Pepsi Entities” or “Appellants”). (Dkt. No. 13.) Pepsi sought permission to take an appeal of Judge Drain’s order denying Pepsi’s motion for summary judgment of four claims arising under the Bankruptcy Code, which Pepsi claimed were barred by the statute of limitations.

The conclusion of the May 18 order incorrectly stated that this Court had “AFFIRMED” Judge Drain’s order, when it had merely denied Pepsi the opportunity to take an interlocutory appeal.

Pepsi has filed a Rule 59(e) motion to amend the Order and the Clerk’s corresponding Judgment closing this case to reflect the fact that this Court did not reach the merits of Pepsi’s appeal, and, thus, did not affirm Judge Drain’s ruling on the statute of limitations issue. The Debtor Appellees do not oppose the proposed revision.

Accordingly, the conclusion of the May 18 order shall be amended to read: “For the reasons stated, the motion for leave to appeal is DENIED.” Likewise, the Judgment shall be amended as follows: “It is, ORDERED, ADJUGED AND DECREED: That for the reasons stated in the Court’s Order dated May 18, 2020, Pepsi’s motion is denied; accordingly, this matter is closed.”

The Clerk of Court is to amend the May 18 order (Dkt. No. 13) and the corresponding Judgment (Dkt. No. 14) accordingly.

SO ORDERED.

Dated: June 11, 2020

A handwritten signature in black ink, appearing to read "Robert M. Hall", written in a cursive style.

Chief Judge

BY ECF TO ALL PARTIES